

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

No. 2:00cr0080-DWA-001

v.

RAMON LAMAR WHITLEY,

Defendant

MOTION FOR LEAVE OF COURT TO WITHDRAW AS COUNSEL

COMES NOW, counsel for the defendant, RAMON LAMAR WHITLEY, Mark A. Sindler, Esquire, and represents as follows:

1. On or about June 9, 2008 this Honorable Court appointed undersigned counsel to represent Mr. Whitley to assess his eligibility for relief under 18 USC § 3582(c)(2). The *nunc pro tunc* date was May 6, 2008.
2. Mr. Whitley received the judgement of sentence from this Honorable Court for allegedly violating 21 USC §§ 841(a)(1), 841(b)(1)(iii), (possession with intent to distribute over 50 grams of crack cocaine). He was also sentenced for allegedly violating 18 USC § 924(c)(1) (firearm possession in connection with a drug-trafficking crime).
3. The drug count (Count 6 of the indictment) carried a mandatory-minimum sentencing term of ten years. The firearm count (Count 7) required imposition of a 5-year imprisonment term to run consecutive to any other imprisonment term from the same case. The weight of the

crack cocaine fell between 50 and 150 grams, according to earlier stipulation.

4. Mr. Whitley's term of confinement was set at a total of 180 months.
5. On November 1, 2007, Section 2D1.1 of the United States Sentencing Guidelines was amended to reduce the base-offense levels for sentences of persons convicted of committing offenses involving crack cocaine by two levels. As of March 3, 2008, that amendment was made retroactive to any cases such as this one where the judgement of sentence was imposed before November 1.
6. Even though Mr. Whitley's case falls within the look-back period and does pertain to crack cocaine, his case does not appear eligible for relief under the crack amendment. The incarceration portion of his sentence was driven exclusively by statute, and not application of the United States Sentencing Guidelines.
7. Undersigned counsel notified Mr. Whitley June 5, 2008 by setting forth in correspondence the results of his having reviewed the indictment, pre-sentence investigation report, and judgement of sentence generated in this matter.
8. In the correspondence, undersigned counsel informed Mr. Whitley of his interim conclusion that relief was not available under Section 3582 in light of amendments to Section 2D1.1. He was instructed to contact undersigned counsel if he disagreed with that conclusion.
9. Undersigned counsel notified Mr. Whitley June 27, 2008 by setting forth

in correspondence form his intention to ultimately withdraw as counsel of record in this matter due to the belief that there was not additional work to be completed and that there was no communication questioning or contesting the conclusion drawn June 5.

10. A copy of the June 5 correspondence was included with that correspondence. Both sets of correspondence were sent by first-class, United States Mail, pre-paid, to Mr. Whitley at FCI-Morgantown in Morgantown, WV with the appropriate register number included.
11. Undersigned counsel confirmed that Mr. Whitley is being held at FCI-Morgantown by reviewing the federal Bureau of Prisons website of registered prisoners. Further, neither parcel was returned to undersigned counsel and marked undeliverable.
12. This Honorable Court was originally directed to appoint undersigned counsel to represent Mr. Whitley at the behest of the Federal Defender as there was the possibility that a sentence modification may be in the offing. Further investigation has confirmed otherwise.
13. A hard-copy version of this pleading was placed in the United States Mail for delivery to Mr. Whitley, on the same date as its filing, at FCI-Morgantown in Morgantown, WV.

WHEREFORE, pursuant to the foregoing averments, undersigned counsel for Mr. Whitley respectfully requests that he be granted leave of court in order to be discharged as counsel of record in this matter.

Respectfully submitted,

S/ Mark A. Sindler

MARK A. SINDLER, ESQUIRE

Pa. I.D. No. 53476

429 Forbes Avenue, Suite 450

Pittsburgh, Pennsylvania 15219-1604

412.471.6680

Counsel for Ramon Lamar Whitley